

**Congress of the United States**  
**Washington, DC 20515**

April 16, 2015

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The Honorable Jeh Johnson  
Secretary  
United States Department of Homeland Security  
Washington, DC 20528

Dear Secretary Johnson:

We are writing to respectfully request your assistance with correcting an ongoing situation that we believe warrants your personal attention. On April 14, 2014, the US Court of Appeals for the Federal Circuit issued a final ruling against U.S. Customs and Border Protection (CPB) that ended nine years of litigation, in favor of International Customs Products (Int'l Custom Prods. v. United States, 748 F.3d 1182 (Fed. Cir. 2014)).

This ruling affirmed that the original New York office letter ruling issued by CPB was still in effect and should be followed for the assessment of the correct duty, as determined by Ruling Letter D86228, which stated that HTSUS 2103.90.9060 (1999) was the proper classification for "white sauce".

Since the Customs Service did not appeal that ruling, it should be found that the matter was resolved. However, the CPB continues to litigate in another case currently before the U.S. Court of Appeals for the Federal Circuit (No. 2014-1644). In this case the CPB is attempting to collect duties based on an action, which has already been found to be unlawful by the United States Court of International Trade, and affirmed by the Federal Circuit on behalf of the same company, International Customs Products.

Based upon the history behind this ruling, we believe CPB's attempts to collect duties that have already been ruled to not be due and are unfounded. CPB should not be able to ignore the ruling of the court and squander taxpayer funds while pursuing such appeals, at the detriment of American jobs.

We would greatly appreciate your assistance in swiftly rectifying this situation and we look forward to your timely reply.

Sincerely,

  
Glenn 'GT' Thompson  
Member of Congress

  
Keith Rothfus  
Member of Congress

cc: R. Gil Kerlikowske, Commissioner U.S. Customs and Border Protection  
Brian DeVallance, Acting Assistant Secretary for Legislative Affairs, DHS  
Michael Yeager, Assistant Commissioner, Office of Congressional Affairs, CPB